

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Hartington, Nebraska)

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MB Docket No. 02-121
RM-10443
RM-10665

**REPORT AND ORDER
(Proceeding Terminated)**

Adopted: December 12, 2003

Released: December 16, 2003

By the Assistant Chief, Audio Division:

1 In response to a petition filed by Jeff Barth ("petitioner"), the Audio Division of the Media Bureau has before it for consideration the *Notice of Proposed Rulemaking*¹ proposing the allotment of Channel 232A at Hartington, Nebraska, as the community's first local FM transmission service. Petitioner did not file comments expressing a continuing interest in the proposed allotment.

2 Pierce Radio, L.L.C. ("Pierce") filed a counterproposal proposing the allotment of Channel 232C2 at Hartington, Nebraska, rather than the allotment of Channel 232A.² Pierce concurs with petitioner that Hartington qualifies as a "community" and is deserving of its own local FM station. Pierce argues, however, that greater public benefit would accrue from allotting Channel 232C2 to Hartington, rather than Channel 232A, because the higher class channel would provide service to a larger area and to a far greater number of persons than the original proposal.³ Pierce therefore asserts that its counterproposal will result in a more efficient use of scarce broadcast spectrum, thereby better serving the public interest. In the event that the counterproposal is granted and Channel 232C2 is allotted at Hartington, Pierce states that it intends to file an application for the Hartington FM station and, if authorized, to promptly construct the station.

3 Hartington, Nebraska, is a community for allotment purposes, and allotment of an FM channel at Hartington will serve the public interest. Our engineering analysis shows that allotment of Channel 232C2 rather than Channel 232A will produce a net gain of 48,036 persons and 6,046 square kilometers. For all of the foregoing reasons, we will allot Channel 232C2 at Hartington, Nebraska. Channel 232C2 can be allotted at Hartington in compliance with the minimum distance separation requirements of the Commission's Rules with a site restriction of 11.9 kilometers (7.4 miles) west of Hartington at 42-39-40 NL and 97-23-58 WL.

¹ Owen, Wisconsin, Hartington, Nebraska, Lone Pine, California, Terrebonne, Oregon, Amboy, California, Sutton, Nebraska, Wynnewood, Oklahoma, Roundup, Montana, and Centerville, Texas, 17 FCC Rcd 9557 (M Bur 2002)

² See Public Notice, Report No. 2592 (February 4, 2003).

4 A filing window for Channel 232C2 at Hartington, Nebraska, will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

5 Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED That effective January 29, 2004, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

<u>Community</u>	<u>Channel Number</u>
Hartington, Nebraska	232C2

6. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

7 For further information concerning this proceeding, contact Deborah Dupont, Media Bureau, (202)418-7072. Questions related to the application filing process for Channel 232C2 at Hartington, Nebraska, should be addressed to the Audio Division, Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau